

EXHIBIT 41

In the Matter of:

NAACP, et al.

VS

LEE, et al.

DONALD HALL

December 13, 2023



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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TENNESSEE CONFERENCE of the NATIONAL
ASSOCIATION for the ADVANCEMENT of
COLORED PEOPLE, on behalf of itself
and its members, et al.,

Plaintiffs,

vs.

Case No. 3:20-CV-01039

WILLIAM LEE, in his official capacity
as Governor of the State of Tennessee,
et al.,

Defendants.

Deposition of:

DONALD J. HALL

Taken on behalf of the Plaintiffs
December 13, 2023
Commencing at 2:30 p.m.

Reported by: Georgette K. Arena, RPR, LCR
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Also Present:

MS. GICOLA LANE

S T I P U L A T I O N S

The deposition of DONALD J. HALL was taken by counsel for the Plaintiffs, by Notice, at the offices of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, 1600 West End Avenue, Nashville, Tennessee, on December 13, 2023, for all purposes under the Federal Rules of Civil Procedure.

The formalities as to notice, caption, certificate, transmission, et cetera, are expressly waived.

It is agreed that GEORGETTE K. ARENA, RPR, Notary Public and Licensed Court Reporter for the State of Tennessee, may swear the witness.

* * * * *

1 * * *

2 DONALD J. HALL,

3 was called as a witness, and after having been duly
4 sworn, testified as follows:

5
6 EXAMINATION

7 QUESTIONS BY MS. HULING:

8 Q. Good afternoon, Mr. Hall. My name is Alice
9 Huling, and I represent plaintiffs in Tennessee
10 NAACP versus Lee. And I'm joined today by my
11 colleagues Blair Bowie and Gicola.

12 I know you previously sat for a deposition
13 in this case; is that correct?

14 A. Yes.

15 Q. Was that in March of this year?

16 A. Yes.

17 Q. So since you are a seasoned deponent, I'm not
18 going to go through all of the rigmarole of getting
19 started. But I'll go over a few basic preliminaries
20 to make to sure we're on the same page.

21 Firstly, because we have our court reporter
22 here, it's important for us to each wait until the
23 other is finished speaking before we give an answer
24 and ask our next question. I will try to do my
25 best with that, and I ask you do, too.

1 If I'm ever asking a question you don't
2 understand, please just ask me to clarify. Happy
3 to.

4 If you need to go on break at any time,
5 please just let me know. I will try to accommodate
6 that as best I can. The only exception being if I
7 have asked a question, I just ask that you answer
8 it before we take a break.

9 And, finally, your counsel may make some
10 objections throughout. For the most part you are
11 going to go ahead and answer unless they
12 specifically tell you not to answer. Does that
13 make sense?

14 A. Yes.

15 Q. Okay. Do you understand you have been sworn
16 to tell the truth while you're here today?

17 A. Yes, I do.

18 Q. Great. Is there any reason you can't tell
19 the truth today?

20 A. No.

21 Q. Okay. What did you do to prepare for today's
22 deposition?

23 A. I met with counsel from the attorney
24 general's office.

25 Q. Is that counsel who's here today?

1 A. Yes.

2 Q. Anyone else?

3 A. No.

4 Q. Was there anyone else at the elections
5 division that you spoke with?

6 A. No.

7 Q. Anyone else from any other county elections
8 office that you spoke with?

9 A. No.

10 Q. How about at any other government office?

11 A. No.

12 Q. So other than the counsel who is here today,
13 you didn't speak with anyone else in preparation for
14 your deposition?

15 A. Correct.

16 Q. Did you take any notes while you were
17 preparing?

18 A. No.

19 Q. And about how long in total did you spend
20 preparing?

21 A. I believe about two hours.

22 Q. Since your deposition in March, have you sat
23 for any other depositions?

24 A. No.

25 Q. And I think know the answer to this, but do

1 understand what I mean when I say restoration of
2 voting rights?

3 A. Yes.

4 Q. Or rights restoration?

5 A. Yes.

6 Q. We can use those relatively interchangeably?

7 A. Yes.

8 Q. And if I say C-O-R or COR, do you understand
9 what I'm referring to?

10 A. Yes.

11 Q. And what's your understanding?

12 A. My understanding that it's the Certificate of
13 Restoration of Voting Rights.

14 Q. That form that's filled out?

15 A. Correct.

16 Q. Okay. I believe in your last deposition you
17 largely went through your role and responsibilities
18 at that time. But I'm curious to know how at all
19 your role and responsibilities have changed in the
20 pending nine months since then. So can you describe
21 your current role?

22 A. My current role is still as an elections
23 assistant with the division of elections and the
24 Tennessee Secretary of State's office.

25 Q. Okay. What are you doing in your current

1 role?

2 A. I am currently still assisting with the
3 felony voting rights restoration process in addition
4 to other office duties.

5 Q. And what are those other office duties?

6 A. Generally helping with different
7 election-related things that are coming up, you
8 know, as we are moving into the kind of 2024
9 election season, we have been issuing a lot of
10 delegate petitions for individuals that are going to
11 be delegates for presidential preference primary
12 candidates. So that's been something I've been
13 helping with, in addition to serving as the chairman
14 of the Tennessee Highway Officials Certification
15 Board, in doing different duties associated with
16 that as well.

17 Q. In your current capacity in your role, how
18 much of your time is being spent on rights
19 restoration?

20 A. I'm not quite sure that I have, like, a way
21 to quantify that.

22 Q. Is it the bulk of what you're doing
23 day-to-day, or is it sort of equally split between
24 that and some of the other responsibilities you've
25 just identified?

1 A. There's times where I think it may be roughly
2 equally split.

3 Q. And times it's less than half?

4 A. Sometimes it would be less than half, and
5 sometimes I think it would be more than half as
6 well.

7 Q. Depends on the day?

8 A. Yeah.

9 Q. Fair enough.

10 Has that sort of distribution of work
11 between rights restoration work and other parts of
12 your role changed at all since you were deposed in
13 March?

14 A. Yes.

15 Q. How so?

16 A. I think there's been a little bit less time,
17 at least more recently, that I've been spending on
18 the rights restoration process, as there was a new
19 attorney hired for our office as well.

20 Q. And is that Lou Alsobrooks?

21 A. Yes.

22 Q. When was he hired?

23 A. I believe it was the beginning of September.

24 Q. And you work with him?

25 A. Correct.

1 Q. And is Lou also working on rights
2 restoration?

3 A. Yes.

4 Q. Is that his primary responsibility?

5 A. I know that it's one of his responsibilities.
6 I'm not quite as familiar with -- with the other
7 things that he's tasked with.

8 Q. Prior to Lou joining, were you the one in the
9 office who was primarily handling rights restoration
10 work?

11 A. Yes.

12 Q. And now that's split between the two of you?

13 A. Correct.

14 Q. Is there anyone else in the office who is
15 helping with work at this point?

16 A. Not initially.

17 Q. Not in the sort of day-to-day processing when
18 things come in?

19 A. Correct.

20 Q. But they might -- others might be involved at
21 other points?

22 A. Correct.

23 Q. How so?

24 A. When needing guidance on interpreting
25 different -- different things and how to -- how to

1 handle different situations.

2 Q. And who -- who might -- who would be those
3 folks who would be involved in that way?

4 A. Generally, it would be Beth Henry-Robertson
5 and Mark Goins.

6 Q. So if you or Lou required guidance, you would
7 go to either of the -- either Mr. Goins or Beth
8 Henry-Robertson?

9 A. Yes.

10 Q. When Lou started, did he receive training?

11 A. Yes.

12 Q. From whom?

13 A. Regarding the -- the felony restoration
14 process?

15 Q. Specifically, yeah. Uh-huh (affirmative).

16 A. He received training from me, as well as
17 reviewing different -- different documents and
18 materials.

19 Q. Were you primarily tasked with training him
20 and getting him up to speed on the rights
21 restoration work?

22 A. For -- for a good bit, yes.

23 Q. What does that mean "for a good bit"?

24 A. There was -- there was a good bit that I
25 believe he also picked up by reviewing the documents

1 and things. It was a sort of interesting situation.
2 He was starting -- he started on a Friday before I
3 went on a week-long vacation. So he -- he, I
4 believe, probably discussed things and did research
5 while I was gone at that point as well.

6 Q. Do you know that week while you were on
7 vacation if he was assigned to a primary point of
8 contact for guidance on what he was doing with
9 respect to rights restoration?

10 A. I believe that my instruction was probably --
11 sort of direction, would have been that if he -- if
12 he had questions in the interim while he was doing
13 his research and various things, that he should
14 reach out to -- to Beth or Mark.

15 Q. Some amount of your work on rights
16 restoration is in -- is corresponding and
17 communicating with county elections officials; is
18 that fair to say?

19 A. Yes.

20 Q. Is that true for Lou as well?

21 A. Yes.

22 Q. When did he start sort of picking up that
23 part of -- of the rights restoration work and
24 communicating with counties?

25 A. At some point after probably two or three

1 weeks. I'm not particularly sure.

2 Q. Are you both primary contacts for county
3 election officials at this point, or is one of you
4 more so than the primary contact for folks?

5 A. We are both primary contacts.

6 Q. Is the plan to keep it that you both were
7 stay that as primary contacts?

8 A. I don't believe so.

9 Q. What's the plan going forward?

10 A. My understanding of the plan going forward
11 would be that he would end up taking over the felon
12 restoration process for our office.

13 Q. So you will transition off it, and he will be
14 transitioning to wholly sort of being the point
15 person on rights restoration work in your office?

16 A. At some point I believe so because my plan is
17 to be leaving for law school in the -- in the not
18 too distant future.

19 Q. Congratulations.

20 A. Thank you.

21 Q. I suppose.

22 MR. PARHAM: More condolences.

23 MS. HULING: Yeah.

24 Q (BY MS. HULING) Okay. During the summer you
25 were the primary point person handling

1 communications coming in and any sort of rights
2 restoration work that was going on?

3 A. Yes.

4 Q. And I'm just -- sorry to reconfirm. Lou, you
5 said, started in September?

6 A. Yes, I believe it was.

7 Q. So sometime thereafter he started picking up
8 more and more of that responsibility?

9 A. Correct. Sort of incrementally.

10 Q. When you were generally doing rights
11 restoration work, you said you are sort of -- will
12 do the initial kind of work when it comes in, and
13 you'll seek guidance sort of as necessary. Is there
14 any sort of -- is that for you to sort of trigger or
15 ask for guidance on something, or is there some sort
16 of supervision that happens on a regular basis of
17 your work on the rights restoration-related things?

18 A. I would say most of the time that it would be
19 something that I would initiate.

20 Q. And when Lou started or -- yeah, when Lou
21 started, is that true for him as well?

22 A. I believe so.

23 Q. So there wasn't sort of a period when he
24 started that he would take a first crack at
25 something and then you would put eyes on it before

1 it went out the door or something of that sort?

2 A. Again, not that I remember.

3 Q. Okay. Are you familiar with the July 21st
4 memoranda regarding rights restoration and voter
5 registration changes?

6 A. Yes.

7 Q. Can you describe your familiarity with those
8 memoranda?

9 A. I've read over them and looked at them
10 several times.

11 Q. And is that for both the memos relating to
12 changes to the Certificate of Restoration or the
13 rights restoration process and to the memo
14 specifically to voter registration policies for
15 older felony convictions?

16 A. Yes, that would be true for sort of both of
17 those camps.

18 Q. So you -- and you said you've read over them.
19 Were you involved in their creation?

20 A. I was -- yes, I have read over them. And I
21 was involved in sort of proofreading things of those
22 different -- those different documents. And I was
23 -- I was also involved in the drafting, initially,
24 of the -- of the processing older -- older voter
25 registrations for individuals who had old felony

1 convictions.

2 Q. Okay. Focusing on that memo, so the one
3 regarding processing older felony convictions, were
4 you the initial drafter of that memo?

5 A. I -- I drafted, after having been given
6 direction from the coordinator of elections.

7 Q. And sort of what -- can you walk me through
8 that process of you getting the directions and doing
9 that initial drafting?

10 A. It was -- it was largely just an explanation
11 of what Mark wanted it to say, and then putting that
12 into more extended written format.

13 Q. And when did you do that initial drafting?

14 A. I don't remember the specific date, but it
15 would have been prior to -- to July, what, 21st of
16 2023.

17 Q. Do you have a sort of ballpark of how long
18 that sort of initial drafting to July 21st took?

19 A. Maybe -- I don't specifically remember, but I
20 would think probably a few weeks.

21 Q. A few weeks. So possibly from sometime in
22 June would have been when you first spoke to Mark
23 about drafting that; does that seem right?

24 A. Maybe sooner than that. But, again, I don't
25 -- I don't remember.

1 Q. Okay. So possibly before that, possibly in
2 June?

3 A. Yeah.

4 Q. So it sounds like it wasn't a process that
5 would have been longer than a couple of months, but
6 it might have been shorter than that?

7 A. The process of?

8 Q. From your initial discussions with Mark to
9 having the product go out on the 21st of July?

10 A. No. It wouldn't have been longer than a
11 month.

12 Q. Okay. When you did your initial draft, what
13 happened then?

14 A. I sent it to Mark.

15 Q. Were there follow-up drafts that you were
16 involved with?

17 A. I don't believe so.

18 Q. Were you involved in proofreading for that
19 one?

20 A. I may have been, but I don't remember.

21 Q. Do you recall in the creation of the
22 memorandum, specifically the one on registration for
23 folks with older felony convictions, if you had any
24 other involvement in that creation or drafting
25 process other than what you've already gone through?

1 A. I don't remember any additional involvement.

2 Q. And then with regard to the memorandum on
3 changes to the rights restoration policy, I
4 understood you to say you were not the initial
5 drafter on that; is that accurate?

6 A. Yes.

7 Q. Do you know who was?

8 A. No.

9 Q. Do you know when that was initially drafted?

10 A. No.

11 Q. What was your involvement, if any, with the
12 drafting of that memorandum, or creation, I guess?

13 A. Of which -- which specific memorandum?

14 Q. Actually, let's back up. The memorandum with
15 respect to the changes to the rights restoration
16 process, were there multiple versions -- multiple
17 memoranda touching on changes to the rights
18 restoration process?

19 A. I believe so.

20 Q. To different agencies and officials who are
21 involved in that process?

22 A. Yes.

23 Q. Did you have any involvement with the
24 drafting or creation of any of those memoranda?

25 A. Again, as far -- as far as I remember, aside

1 from about basic proof reading organizational stuff,
2 no.

3 Q. Were there any discussions with you as the
4 person who was primarily handle rights restoration
5 work about feasibility of the new procedures that
6 were included in those memoranda?

7 A. I don't believe so.

8 Q. I would just like to discuss a little bit
9 about the process that's laid out specifically in
10 the changes to the rights restoration process. Can
11 you give me your sort of basic understanding of how
12 the new process operates?

13 A. The new process since July --

14 Q. Yes, uh-huh (affirmative).

15 A. -- 22st, 2023?

16 Q. Uh-huh (affirmative).

17 A. My understanding is that it is a two-step
18 process for somebody to get their voting rights
19 restored in the State of Tennessee. The sort of
20 first step being that an individual has to have
21 either received a pardon or have had their full
22 rights of citizenship restored. The second is
23 showing the criteria related to their conviction,
24 the date, it would have been restitution
25 requirements and court costs requirements as well.

1 Q. And this is a departure from the way rights
2 restoration worked prior to the guidance going --
3 that guidance going out on the 21st of July?

4 A. Yes.

5 Q. How so?

6 A. At least for individuals in the State of
7 Tennessee, they would not have -- under the previous
8 operation, would not have needed to show their full
9 rights of citizenship or a pardon having -- or full
10 rights of citizenship having been restored or having
11 received a pardon.

12 Q. And now you mentioned it as a two-step
13 process. Does one step have to come first?

14 A. I don't believe so.

15 Q. So an individual could either have a
16 Certificate of Restoration completed and then get
17 either a court order of citizenship rights restored
18 -- restoration or a pardon or vice versa?

19 A. I think so. We would just need to receive
20 both of them.

21 Q. Under the process, the first step, I think
22 that you talked through, was requiring either proof
23 of a pardon or full citizenship rights restoration.
24 Can you explain a little bit more what both of those
25 entail?

1 A. The -- the pardon and the full restoration?

2 Q. We can start with the pardon. What would be
3 required to sort of satisfy that first step with
4 regard to a pardon?

5 A. I believe a copy of the pardon.

6 Q. And just any copy of the pardon?

7 A. I believe so.

8 Q. And for the proof of -- or for satisfying a
9 full rights -- full citizenship rights restoration,
10 what's required for that?

11 A. If it comes from a court in Tennessee, if
12 it's a court order from a Tennessee court, it would
13 need to be a certified copy, I believe.

14 Q. And who else could it come from if it's not
15 coming from a Tennessee court?

16 A. If there would be somebody that had their
17 citizenship rights restored in another state.

18 Q. Would that have to be a certified copy?

19 A. If it did not come from a court, my
20 understanding is no.

21 Q. And what constitutes full citizenship rights
22 restoration?

23 A. That's sort of determination for the -- for
24 the coordinator of elections.

25 Q. So is the coordinator of elections the one

1 looking at all rights restoration documentation
2 that's coming in and deciding whether or not the
3 full rights of citizenship have been met --
4 citizenship restoration have been met?

5 A. No.

6 Q. Who is doing that?

7 A. Who is looking at all the documents?

8 Q. Yeah.

9 A. Myself and Lou Alsobrooks.

10 Q. Okay. So when you're looking at
11 documentation that you receive, and specifically you
12 are looking at documentation pertaining to full
13 citizenship rights restoration, what are you looking
14 for to know if that's been satisfied or not? Like
15 what constitutes that? Because I thought you just
16 said Mark would be making that determination?

17 A. He would be. But you kind of said all -- all
18 the restoration documentation that we receive, so he
19 -- he would be reviewing if we had gotten to the
20 point where things had looked -- looked good for
21 that -- that person, up to the point of needing to
22 know if they had had their full citizenship rights
23 restored.

24 Q. Let me make sure I am understanding this
25 right. If you are receiving -- if your office is

1 receiving documentation for rights restoration, you
2 and Lou would look at all of it. And if it all
3 looks good to you, then you would pass it along to
4 Mark for him to make a determination as to whether
5 the full rights of citizenship restoration have been
6 satisfied?

7 A. Yes.

8 Q. Okay. So there's like a two-step review
9 process before something can get approved?

10 A. In a way.

11 Q. Okay. And what if you make a determination
12 that something -- that something doesn't look right,
13 what happens then? You wouldn't send it to Mark for
14 his opinion?

15 A. Largely if the individual -- especially if
16 they do not submit documentation of having their
17 full citizenship rights restored or a pardon or
18 anything, they would be denied for not having
19 provided that information.

20 Q. Okay. So when you're doing that initial look
21 at documents, you are sort of looking to see if each
22 of the pieces looks to be there, and then passing it
23 along to Mark to make sure that each of the piece --
24 or specifically the full rights restoration piece is
25 satisfied?

1 A. Yeah, we look to -- we look to see and make
2 sure that all the other pieces regarding
3 restitution, court costs, the conviction and its
4 date and everything are in line. And that if it
5 sort of gets to the point of where we would believe
6 the person to possibly be eligible, if they had had
7 their full rights of citizenship restored, that
8 would be point it would be elevated to Mark.

9 Q. Could there be a time when you would receive
10 documentation and it looked like all the pieces that
11 needed to be there were there, but you or Lou would
12 determine that the -- the sort of piece to satisfy
13 Step 1, the documentation regarding full rights of
14 citizenship restoration, is like incomplete or
15 insufficient and you would issue a denial before
16 sending it to Mark to make that determination?

17 A. I'm not sure if that's occurred so far.

18 Q. Can you think of an instance when you
19 would -- like, are you empowered to make that
20 decision, I guess? Or are you -- let me see if I
21 can rephrase this.

22 Are you ever looking at the documentation
23 pertaining to full rights of citizenship
24 restoration and making a determination of whether
25 or not it satisfies the requirement?

1 A. Like the document itself that we received,
2 whether or not it meets those qualifications?

3 Q. Right.

4 A. I don't -- I don't particularly know. I
5 don't know that -- again, I'm not sure that we've
6 come across that so far.

7 Q. Is there an internal policy or guidance that
8 you've received from Mark as to whether or not you
9 could make that sort of determination, or whether he
10 is solely to make those sorts of determinations?

11 A. I don't believe that we've received official
12 direction or anything of that sort. But, generally,
13 my -- my own policy has been that if it's -- if I
14 have any sort of questions, that -- and the actual
15 policy is that it's ultimately Mark's -- Mark's
16 decision.

17 Q. So if I'm understanding this correctly, are
18 you saying that any rights restoration that is
19 approved under the new policy, Mark will review
20 before it's approved?

21 A. He has reviewed all of the restorations that
22 have occurred since July 21st, 2023.

23 Q. Has he reviewed all of them or specifically
24 all before they are approved, or are there some that
25 are denied without his review?

1 A. There are some that are denied without his
2 review.

3 Q. Okay. Is his reviewing them a change from --
4 reviewing all approvals before they go out, a change
5 from the process that was in place before July 21st?

6 A. Yes.

7 Q. Was that -- strike that.

8 Do you know how many rights restorations
9 have been approved since the July 21st change?

10 A. Yes.

11 Q. How many?

12 A. One.

13 Q. But have there been other rights restoration
14 applications that have come in since July 21st that
15 have been denied?

16 A. Yes.

17 Q. And just to make sure, Mark has not reviewed
18 all of those denials?

19 A. Correct.

20 Q. Has he reviewed any of those denials?

21 A. I believe he probably has.

22 Q. Is that a sort of case-by-case basis, whether
23 he's reviewing them or not?

24 A. Yes.

25 Q. So what would trigger his review of a denial?

1 A. Again, it would be on a case-by-case basis,
2 if either Lou or I had a question regarding whether
3 or not the person would be -- would be eligible to
4 have their voting rights restored.

5 Q. Okay. We have been talking about the sort of
6 change in process here as July 21st. Is that when
7 the new procedure became effective?

8 A. Effective in?

9 Q. When it went into effect, when the new
10 procedures went into effect.

11 A. So that's -- that's when the new procedures
12 were distributed and the memos were distributed to
13 the counties and the different authorities that they
14 were given out to.

15 Q. When did the new procedures go into effect?

16 A. I believe it would have been on -- on that
17 date.

18 Q. When the notice was distributed to the
19 authorities at the county court clerks office and
20 that sort of thing?

21 A. Yes.

22 Q. Who generally is -- so am I correct in
23 understanding that along with new procedures, a new
24 Certificate of Restoration form was issued?

25 A. Yes.

1 Q. Who fills out this new form?

2 A. Both the applicant and the requisite
3 authorities that are described on the form.

4 Q. And who are the requisite authorities
5 described on the form?

6 A. The specific -- the form has the specific
7 language on it. But generally it's going to be
8 probation and parole officers or individuals
9 associated with the department of correction, or
10 it's going to be the court clerks in the court where
11 an individual had their conviction at.

12 Q. Is that a change from who was previously
13 filling out Certificate of Restoration forms?

14 A. Overall in the sense that, yes, that the
15 applicant now has the ability to fill out -- or is
16 directed to fill out the first portion.

17 Q. Do you know why the applicant is now the one
18 filling out part of the form?

19 A. My understanding is sort of ease of -- ease
20 of use in being able to fill it out and convenience.

21 Q. Ease for the applicant? When you say "ease,"
22 I guess whose ease are you referencing?

23 A. Sort of everybody's, both the applicant
24 and -- and us for processing.

25 Q. Who specifically is filling out -- on the

1 form it asks about court costs, restitution, and the
2 conviction information. Is it generally one person
3 filling out all of those pieces, or who's filling
4 out each of those pieces?

5 A. It would be either the -- like I said, kind
6 of generally the probation and parole officer or the
7 court clerk -- or somebody with the court clerk's
8 office where the conviction was at.

9 Q. Is it sometimes that, like, different
10 officials would fill out different parts of the same
11 COR form?

12 A. It -- it would be possible I believe for them
13 to, but I'm not sure if we've seen that.

14 Q. How when these new policies -- when these new
15 policy memoranda were issued on July 21st, do you
16 know how they were distributed to the intended
17 recipients?

18 A. My understanding is that they were
19 distributed by email.

20 Q. And was there any training that went along
21 with that?

22 A. Outside of the memoranda themselves?

23 Q. Yeah.

24 A. Yes.

25 Q. What was that training?

1 A. There was a training called with the -- all
2 the counties -- counties' election commissions were
3 invited to -- regarding that, those memoranda.

4 Q. Was there a training call for any of the
5 department of correction personnel who were
6 receiving the memoranda?

7 A. Not that I'm aware of.

8 Q. Was there any sort of training call when -- I
9 believe a memo was also issued to court clerk
10 officials; is that right?

11 A. I believe so, yes.

12 Q. Do you know if there was a training call that
13 went along with the issuance of that memoranda?

14 A. Not that I'm aware of.

15 Q. Were you involved with any of the -- with the
16 training call that happened for the election
17 commissions officials?

18 A. I listened to it.

19 Q. Was it a phone call or a -- or what form was
20 the training in?

21 A. If I'm remembering correctly, I believe it
22 was WebEx, but it also had a phone call feature that
23 you could call in to a line and listen to it.

24 Q. Were there visuals that went along with it?

25 A. I'm not sure if there was. I didn't

1 participate by -- by computer.

2 Q. Got it.

3 When the new guidance was issued and if
4 election commissions had questions about the new
5 guidance, were you their primary point of contact
6 to follow up with those questions?

7 A. Not the day of. I was actually on vacation
8 at the time, hence me listening in on the phone that
9 day.

10 Q. That's not such a vacation.

11 Who would have been the primary point of
12 contact the day of --

13 A. The --

14 Q. -- the questions folks had?

15 A. Sure. The day of, I believe it would have
16 been either Beth, Mark, or, possibly, Andrew in our
17 office.

18 Q. When you got back from vacation, would it
19 have been assumed that you would have been the
20 primary point of contact for fielding questions
21 about the new guidance?

22 A. I believe so. But there were still questions
23 that went to Beth as well.

24 Q. Was it conveyed to elections commissions that
25 if they had questions the day of or immediately

1 thereafter while you were out, that they should
2 direct their questions to someone else in the
3 elections division?

4 A. I don't remember.

5 Q. Did you receive questions related to the new
6 guidance?

7 A. Yes.

8 Q. What kinds?

9 A. I received several different questions on --
10 on different topics.

11 Q. What type topics were those?

12 A. There was several, and I don't particularly
13 remember individual instances.

14 Q. Were there certain particular topics or -- or
15 concerns that you remember getting a lot of
16 questions about, or the majority of questions about?

17 A. I don't -- I don't believe so. I don't
18 remember any specific ones.

19 Q. So it was sort of varied across the board
20 from different folks?

21 A. I would say so.

22 Q. Outside of questions, was there any other
23 sort of general feedback that you received about the
24 new guidance?

25 A. There may have been individual comments along

1 with -- along with the questions, but I don't
2 remember specifics.

3 Q. Do you have any general memory of any of the
4 content of any of those comments?

5 A. No.

6 Q. After the guidance was issued, did you see
7 sort of any types or particular types of mistakes
8 that were being made in implementing the new
9 guidance?

10 A. In implementing the new guidance?

11 Q. The new process.

12 A. Who -- who implementing it?

13 Q. I guess we could start with the folks in the
14 elections commissions. Were the AOE's in
15 implementing the new guidance?

16 A. Not -- not that I remember, specifically
17 recall.

18 Q. Do you remember seeing, in particular, any
19 types of mistakes from anyone else implementing the
20 guidance, perhaps, the folks in the department of
21 correction who were filling out the certificates?

22 A. Aside from possibly receiving old forms on
23 occasion, no.

24 Q. Were you aware of having seen any particular
25 types of mistakes coming out of court clerks filling

1 out any of the forms or processing?

2 A. Not that I remember.

3 Q. Okay. All right. I apologize up front. I'm
4 going to start showing you a lot of documents.

5 MR. BARKER: Before we begin that, can
6 take a real short break for me to run to the
7 restroom?

8 MS. HULING: Sure.

9 (Short break.)

10 Q (BY MS. HULING) Circling back to the
11 conversation we were having before we jumped into
12 documents, we were talking about when you -- when
13 it -- your office receives a rights restoration
14 application and you reviewed -- and then sometimes
15 you would raise to Mark for review as well. Were
16 there ever any applications that came in that
17 either you or Lou thought was a close call or you
18 thought might have been an application that could
19 be approved or should be approved and raised to
20 Mark and he said, no, it needed to be an
21 application that was denied?

22 A. No, not that I recall.

23 Q. All right.

24 (WHEREUPON, the above-mentioned
25 document was marked as Exhibit Number 1.)

1 Q (BY MS. HULING) One more follow-up question.

2 So one -- the only -- the only one that was
3 elevated that -- the only application that was
4 elevated that you thought should be approved was
5 the one that was ultimately approved by Mark --

6 A. That was --

7 Q. -- since July 21st?

8 A. That's been the only one that was elevated to
9 him that where the individual, he determined, had
10 received their full rights of citizenship having
11 been restored.

12 Q. I guess I thought you had mentioned there
13 might have been some others that -- maybe "elevated"
14 isn't right word, but that you brought to Mark's
15 attention because you had questions about or Lou had
16 questions that were ultimately denied; is that true?

17 A. I think there -- there may have been, but
18 that was ones that I don't remember.

19 Q. Okay. Thank you. All right. Do you
20 recognize this email document in front you? It
21 looks like it was sent by you Susie Davenport. The
22 top email in the thread here is from July 27th?

23 A. Did you ask if I recognized it?

24 Q. Is it --

25 A. Yes.

1 Q. -- an email exchange that you were on?

2 A. Yes, I do recognize it.

3 Q. Okay. Looking about sort of halfway down the
4 first page it says -- it is addressed to Andrew.

5 And it looks like Ms. Davenport is clarifying her
6 understanding with respect to older convictions and
7 the new process under the new guidance; is that a
8 fair encapsulation?

9 A. I believe so.

10 Q. Okay. And she says, Do I understand
11 correctly that I can process this registration from
12 the summer of '69, one, without having to have
13 anything else, and without sending it to you? Do
14 you see that?

15 A. Yes, I do.

16 Q. Is that a correct understanding -- is she
17 correctly sort of stating the process under the new
18 guidance?

19 A. Without seeing the individual's voter
20 registration form -- I believe it was from
21 Ms. Grubbs -- I wouldn't be able to say.

22 Q. Assuming everything on the registration form
23 was accurate and it indicated that there was a
24 felony from the summer of 1969, is her understanding
25 of the process that she could process it without

1 sending it to you correct?

2 A. If it -- if it was also indicated on that
3 voter registration form that the individual's
4 conviction was not one of the specific infamous
5 crimes that are listed out in the statute -- I don't
6 unfortunately have all of them memorized -- but I
7 believe that, yes, that would be accurate that she
8 would be able to process that registration.

9 Q. Does she make any mention about it needing to
10 be one of -- needing to check as to whether it's one
11 of those crimes that's infamous or not?

12 A. I believe she sort of does.

13 Q. How so?

14 A. In the second -- sort of second paragraph
15 under where it's addressed to Andrew, she says,
16 Depending on what and when, if it falls in the list
17 of what is permitted and what was current at the
18 time to not lose their right to vote by -- that part
19 that's in parenthesis there.

20 Q. Okay. And then up at the top it looks like
21 she forwards this to you on July 27th, almost a week
22 later, when she hadn't gotten a response. Do you
23 remember receiving that?

24 A. I remember having seen this email before.

25 Q. Do you know if you got back to her?

1 A. I believe so.

2 Q. And do you remember what your response back
3 to her was?

4 A. No, not specifically.

5 Q. Looking at it now for this first sort of one
6 that we were just talking about, would you have --
7 what would have been your response about whether she
8 was understanding of the policy, whether she was
9 understanding the policy correctly or not?

10 A. I believe with my understanding of everything
11 today, I -- I would have said that -- that, again,
12 if that person had not been convicted of one of
13 those specifically infamous crimes that were laid
14 out in the statute and that she had provided all the
15 necessary information on her voter registration
16 application, that she would be -- would be able to
17 process that.

18 Q. Is that different than the process for these
19 -- for those -- is that a change from the way the
20 process was prior to the July 21st guidance change?

21 A. Yes.

22 Q. How so?

23 A. In the prior to the July 21st, 2023, changes,
24 we would have needed to see evidence of the person's
25 conviction.

1 Q. Okay. And then in the -- at the bottom of
2 the page here she follows -- there's a -- not
3 follows up. I think there was a separate thread
4 with a few more questions. And specifically she --
5 there's a sort of No. 2. And she mentions receiving
6 court orders restoring rights of citizenship that
7 would restore them -- previously having received
8 court orders restoring rights of citizenship that
9 would restore them with the exception of owning
10 firearms or running for public office, but sometimes
11 stating specifically that the right of suffrage was
12 restored. And she says those would count, wouldn't
13 they or not? Do you remember responding to her
14 about that question?

15 A. I don't specifically remember responding to
16 her on that question.

17 Q. If you were responding to that question now,
18 what would be your response?

19 A. I believe that my response to No. 1 would be
20 that individuals can have their rights of
21 citizenship restored if they have a conviction in
22 another state and they've been restored there.

23 To No. 2, that would be -- that would be a
24 question that I would elevate either to -- either
25 to Beth or to Mark.

1 Q. Are you aware of having come across instances
2 of that question since the guidance has changed?

3 A. Instances of the -- either the exception of
4 specific rights?

5 Q. Right.

6 A. And in restoration of citizenship rights,
7 yes.

8 Q. And what have you been told in those
9 instances when that's come up?

10 A. When that's come up, I've elevated those to
11 -- to -- to Mark.

12 Q. And is there a general guidance now that
13 you've elevated those to Mark as to how to handle
14 those types of cases if you get more of them?

15 A. No.

16 Q. Was there any discussion of what to do in
17 those cases when the guidance was first issued and
18 when Ms. Davenport posed this question in late July?

19 A. Not that I remember.

20 Q. Do you have any specific memory of what's
21 happened in, like, those instances that you've
22 elevated to Mark?

23 A. I remember some of them.

24 Q. What happened in those instances when this
25 sort of issue has come up and you've elevated them

1 to Mark?

2 A. They've been awaiting his approval or
3 decision.

4 Q. And so are they still awaiting his approval
5 or decision?

6 A. Yes.

7 Q. So is there like a sort of pending status
8 that these types of questions are in at this point?

9 A. Yes.

10 Q. Do you know how long those questions have
11 been pending?

12 A. No, not specifically.

13 Q. Do you have any guidance to give back to
14 folks about when to expect a determination on these
15 types of questions?

16 A. No.

17 Q. So if I'm understanding correctly when that's
18 come up and you moved that over to Mark, to your
19 knowledge there's been no follow-up or response on
20 those?

21 A. No follow-up in the sense of an approval or
22 denial?

23 Q. Right. Right.

24 A. No.

25 Q. And what about sort of a general response

1 back to whatever county sent them in?

2 A. There have been counties that have contacted
3 us.

4 Q. Specifically about these sorts of issues?

5 A. Yes.

6 Q. And what do you tell them when they contact
7 you?

8 A. That they are on the coordinator's desk for
9 review.

10 Q. And so, basically, the counties -- the
11 counties and the applicants should hold tight while
12 the coordinator is reviewing them?

13 A. Our direction has been that it's been
14 under -- under review for the coordinator. It's
15 been on his desk.

16 Q. Has that been true since the guidance has
17 been issued on July 21st?

18 A. When -- when these instances have come up,
19 yes.

20 Q. Do you have any idea of how many instances of
21 that this type have come up?

22 A. I don't know the specific number.

23 Q. Ballpark?

24 A. Somewhere between nine and 12.

25 Q. And do you have a feel, like, for when

1 they've been received?

2 A. Again, not specifically.

3 Q. Could be any time between -- since the
4 guidance has been issued or does it -- do you have a
5 sense of them having been more recent or more in the
6 summer right when the guidance changed, anything of
7 that sort?

8 A. No.

9 MS. HULING: I'm going to introduce
10 another document.

11 (WHEREUPON, the above-mentioned
12 document was marked as Exhibit Number 2.)

13 Q (BY MS. HULING) I am going to introduce as
14 Exhibit 2, this communication between, it looks
15 like, yourself and Ms. Staggs. Do you know who
16 Barbara Staggs is?

17 A. Yes.

18 Q. Who is she?

19 A. She is the individual at the Sumner County
20 Election Commission Office that has largely been my
21 contact for the voting rights restoration process
22 there.

23 Q. And take a minute to look at this if need be.
24 But could you just in your own words give a
25 summation what she's sending here?

1 there had been multiple reasons for denial, that
2 would be listed on the form as well, wouldn't it?

3 A. I believe the previous format for the denial
4 letters only allowed one reason for denial to be
5 listed on here.

6 Q. Okay. That's all with that. Thank you.

7 (WHEREUPON, the above-mentioned
8 document was marked as Exhibit Number 8.)

9 Q (BY MS. HULING) Sorry. This is another
10 multi-pager. Okay. So this would be Exhibit 8.

11 This is correspondence between yourself
12 and -- it might change, but it starts out in the
13 prior emails, it says, with Jerry Bierbrodt and
14 ultimately is between yourself and Clifford Caver;
15 is that right?

16 A. Yes, that seems to be accurate.

17 Q. Probably really butchering some names there,
18 unfortunately.

19 So if we turn to the initial email on the
20 last couple of pages, do you remember this
21 correspondence?

22 A. Yes.

23 Q. On this August 9th email, who is this sender,
24 Jerry?

25 A. So I believe he is -- sort of the states in

1 his email signature on the very last page, but he
2 was a U.S. probation services assistant. I knew he
3 worked for the U.S. Probation and Parole Office.

4 Q. So would this be somebody who would be
5 involved with rights restoration with regard to
6 federal convictions, federal felony convictions?

7 A. Yes.

8 Q. And he asks if you could tell him what was
9 meant to have full rights of citizenship restored
10 and how one would go about having their rights
11 restored. Do you see that?

12 A. Yes.

13 Q. Had there been a memoranda -- July 21
14 memoranda sent to federal officials handling rights
15 restoration in Tennessee?

16 A. Yes, I believe so.

17 Q. And that was similar to the other memoranda
18 that were sent out on July 21st?

19 A. They had similar content, yes.

20 Q. Do you know if there was any other guidance
21 or training provided for federal officials?

22 A. Not that I'm aware of.

23 Q. Okay. It looks like he's asking for -- when
24 he says what is meant by having full rights of
25 citizenship restored. In your response you say that

1 it could be either a pardon or seeking a court order
2 restoring full citizenship rights. And you go on to
3 provide him a list of what might be included in
4 citizenship rights, like holding public office,
5 sitting on a jury, the right to vote, but you note
6 that that's not an exhaustive list. Do you see
7 that?

8 A. Yes.

9 Q. What is an exhaustive list?

10 A. I -- I don't know.

11 Q. Was an exhaustive list or a definition of
12 what full rights of citizenship restoration entailed
13 provided to federal officials handling rights
14 restoration?

15 A. Not to my knowledge.

16 Q. It looks like then in the -- on Page 5777 you
17 get a response back to -- to your email from
18 Clifford that asks that -- it looks like he had
19 passed along from their investigative assistant what
20 you had sent, and asks for individuals convicted in
21 federal court, whether they should be directed to
22 their court of clerk's office. Do you see that?

23 A. I do.

24 Q. Do you remember receiving that question?

25 A. Yes.

1 Q. And it looks like your answer goes back --
2 you responded back on August 23rd. So -- I don't
3 know, what is that -- seven or eight days later?
4 Was that something that -- was that something you
5 had an answer to right away, or was that something
6 you needed to figure out before answering him?

7 A. The question that he had about them being
8 directed to the federal clerk of the court's office?

9 Q. Yeah.

10 A. No. That was not an answer that I had right
11 away.

12 Q. Okay. So where an individual with a federal
13 felony conviction should go to get their full rights
14 of citizenship restored on that conviction was not
15 something you had an answer to when he asked that in
16 mid August?

17 A. No. Our office -- at least me, specifically,
18 I was -- I was relatively sure that there was no
19 mechanism for a federal court to restore someone's
20 full citizenship rights. But before responding, we
21 want to be, to ensure that there is -- there was
22 nothing that we could find. At least I believe that
23 was that response. I know that was a part of this
24 sort of back-and-forth that we had.

25 Q. And at this point in time you were the

1 primary point of contact for rights restoration type
2 of questions in your office; is that fair to say?

3 A. Yes. I believe it would have been in August.
4 So, yes.

5 Q. So once you got an answer, what was
6 ultimately your answer back about where someone with
7 a federal felony conviction -- what steps they would
8 need to do to get full rights of citizenship
9 restored?

10 A. So it -- I believe that the direction was
11 that -- and this is kind of reflected in the email
12 as well, but if an individual had a felony
13 conviction in a U.S. district court in Tennessee,
14 that they would need to petition either the county
15 circuit court in the county where they lived or the
16 county where they were convicted in Tennessee for
17 restoration of citizenship rights.

18 Q. It looks like then on the follow-up emails
19 here that you sort of had a meeting of the minds
20 agreement with Clifford that that was right, that's
21 what needed to happen for someone with a federal
22 felony conviction; is that fair to say?

23 A. Yes, I believe that's fair to say.

24 Q. Is that still the guidance, or has that
25 changed at all since then?

1 A. As far as I'm aware of, that's still the
2 guidance.

3 Q. Done with that document. Thank you.

4 (WHEREUPON, the above-mentioned
5 document was marked as Exhibit Number 9.)

6 Q (BY MS. HULING) Then this will be Exhibit 9.
7 At the bottom of this email thread is some of the
8 same email thread we were just discussing, correct?
9 But the top email is, it looks like, maybe a draft
10 response that you spent -- that you sent to Mark
11 before sending your response back about what needs
12 to happen for a federal felony conviction to get
13 full citizenship rights restored?

14 A. Yes, that seems correct.

15 Q. Okay. It looks like this was sent on
16 August 17th. And I think looking back you
17 ultimately responded on August 23rd. Do you
18 remember -- do you remember any discussions that
19 took place in that time, or why the delay?

20 A. No. No, I don't remember.

21 Q. Do you remember if you got a response back
22 from Mark?

23 A. I got some sort of approval before sending
24 the -- that email to the -- Mr. Caver, Carver --
25 yeah, Caver.

1 Q. The email you ended up sending back to
2 Mr. Caver is a bit different than the draft email
3 you have sent here -- that you have drafted here.
4 Do you remember if there was back-and-forth between
5 you and Mark to change any of that?

6 A. I -- I remember there being at least a
7 discussion and then a review of the draft and us
8 going over it. I don't remember specifics about the
9 conversation, no.

10 Q. One thing that you have in your draft from
11 August 17th here on Exhibit 9 is for individuals
12 with federal felony convictions, as well as previous
13 circuit court felony convictions in multiple
14 different Tennessee counties, it may be useful for
15 them to reach out to an attorney, legal clinic, or
16 the county circuit court where they currently live
17 in Tennessee, under wanting register to vote. Do
18 you see that?

19 A. Yes.

20 Q. So I have a couple questions. What led you
21 to include that in your initial draft?

22 A. I don't remember the particulars, but
23 generally just giving the ability for them to have
24 some more direction to where to send these people.

25 Q. Was that guidance given to anyone else in

1 another context?

2 A. Definitely reaching out to the county circuit
3 court has been...

4 Q. Do you have any recollection of why that
5 didn't ultimately get included in the response you
6 sent back?

7 A. No, I don't.

8 Q. Do you think, generally speaking, that that
9 is like still helpful guidance?

10 MR. BARKER: Objection to form.

11 You can answer.

12 THE WITNESS: I'm not sure if it would
13 be or not.

14 MS. HULING: Great. Okay.

15 I'm switching gears a little bit. I was
16 going to -- would folks like a break?

17 THE COURT REPORTER: Yes.

18 MS. HULING: Let's take it then.

19 (Short break.)

20 (WHEREUPON, the above-mentioned
21 document was marked as Exhibit Number 10.)

22 Q (BY MS. HULING) All right. So I believe you
23 said a little bit ago that there has been one
24 rights restoration approved since the guidance --
25 the new guidance was issued on July 21st; is that

1 right?

2 A. Yes.

3 Q. Is this Exhibit 10 that restoration?

4 A. Yes.

5 Q. And this is the only approval of rights
6 restoration under the new procedures?

7 A. Yes. This is the only person we've issued a
8 restoration of voting rights for.

9 Q. On Page 7975, the sort of third page here.

10 Yep, the order restoring citizenship. On the order
11 it says that the petitioner is eligible to have his
12 citizenship and his right to possess a firearm
13 restored. Do you see that?

14 A. Yes.

15 Q. Do you read that to understand that his
16 citizenship and his right to possess a firearm are
17 two distinct things?

18 A. I don't particularly know.

19 Q. Are firearm rights contained within
20 citizenship rights?

21 A. I -- I don't know.

22 Q. Is this something that is -- is this
23 something that is -- is this part of what some of
24 the questions that you were saying are with Mark --
25 that are sort of pending with Mark about whether or

1 not or -- or what is constituted within full
2 citizenship right restoration? That was a bad
3 question. I can rephrase that. It is getting late.

4 Earlier you said that there were some amount
5 of rights restoration applications that are with
6 Mark pending a sort of determination on how full
7 rights of citizenship restoration is defined. Is
8 that accurate?

9 A. Yes.

10 Q. Is part of that question whether or not the
11 right to possess a firearm is a part of full
12 citizenship rights restoration?

13 A. From my understanding, that's a part of it.

14 Q. But this application was approved. Is that
15 because it separately lists out the rights -- the
16 right to possess a firearm?

17 A. I know that it was determined by Mark that
18 this met the criteria for somebody of having their
19 full citizenship rights restored.

20 Q. So would this have been an application that
21 either you or Lou looked at, it seemed to meet all
22 of the obligations under the new procedures, and so
23 you sent it to Mark for his final approval?

24 A. Yes.

25 Q. And he, on this one, issued approval, and so

1 me say, pending the evaluation of the effects of
2 Falls v. Goins.

3 Q. Do you remember when you were told that?

4 A. No, I don't.

5 Q. So the new guidance may not have gone into
6 effect until July 21st, but some time before that
7 you were told to basically sit on any restoration
8 applications you got until that guidance was issued?

9 A. To pause until we knew what the effects of
10 Falls v. Goins were going to be.

11 Q. So some amount of restorations that were
12 submitted prior to the new guidance being issued
13 were paused and ultimately had applied the new
14 procedures even though they had been received before
15 the effective date of the new procedures?

16 A. The effective date language is sort of
17 unclear to me, I guess, a bit. As the issuance of
18 Falls v. Goins for, like, my non-lawyer-yet
19 understanding, is that was giving a new definition,
20 or direction, for the process, interpreting the law
21 and saying how it was supposed to be implemented.

22 Q. So as a general timeframe, there were the old
23 processes that were in place and that you would
24 generally process as applications came in under the
25 old procedures.

1 The Falls decision came out. You continued
2 to process applications as they came in under the
3 old procedures. At some date, maybe in early July,
4 you were told to stop processing things under the
5 old procedures. On July 21st new guidance was
6 issued, and then the kind of pile that had
7 accumulated in the interim was processed under the
8 new procedures; is that accurate?

9 A. I believe that that would be accurate, yes.

10 Q. And we don't know when that date that you
11 were told to pause was?

12 A. Not the specific date, no.

13 Q. 4th of July is right around there. Sometimes
14 there's a holiday. Any feel for whether it was
15 before or after that?

16 A. It probably would have been around that time.
17 But, again, I don't -- I don't know.

18 Q. If this had been processed -- if this
19 application had been processed under the old
20 procedures, would this have resulted in his voting
21 rights restored?

22 A. Assuming that he did not have any convictions
23 after the date of this restoration of citizenship
24 rights that would have not been covered by the order
25 and after confirmation that child support

1 obligations were up-to-date if there were any, yes,
2 pre -- pre-Falls v. Goins he would have been
3 restored.

4 Q. And if he had received from -- if service had
5 been tendered at some point in the month between
6 when the order was issued and when it was tendered
7 and Mr. Murphy had similarly gotten his voter
8 registration completed within a few days of
9 receiving that order such that it would have been
10 received by your office earlier and processed
11 earlier, is it likely that his rights would have
12 been restored?

13 A. Earlier on -- on what date, I guess?

14 Q. So the order is issued on June 5th. A copy
15 was not served until July 10th. If it had been --
16 if that order would be served on June 6, let's say,
17 the next day, and he had gone in three days later --
18 so on June 10th, let's say -- and filled out his
19 voting rights restoration -- or his voter
20 registration information and provided the court
21 order and that had been sent off to your office and
22 processed, it would have been processed under the
23 old guidance?

24 A. If we had received it, you know, within few
25 days of -- of its issuance, the decision of

1 Falls v. Goins wouldn't have come out yet. So, yes.

2 Q. And even if it was in late June but before
3 you decided -- before the decision was made to pause
4 on processing, but after the Falls v. Goins
5 decision, it still would have processed under the
6 old guidance?

7 A. Until I would have received some direction,
8 you know, the pause direction that I did receive, I
9 would have continued operating under -- under the
10 previous procedures.

11 Q. Thank you. Okay. Done with that document.
12 Thank you.

13 (WHEREUPON, the above-mentioned
14 document was marked as Exhibit Number 14.)

15 Q (BY MS. HULING) Okay. So this is Exhibit 14,
16 and it appears to be email communications from the
17 Greene County Elections Commission -- Election
18 Commission attaching some restoration documentation
19 for Mr. Wright; is that accurate?

20 A. Yes, that seems to be accurate.

21 Q. Okay. I'm looking at the initial email sent
22 on Monday, July 3rd. It indicates that there is a
23 Certificate of Restoration attached and that -- then
24 the individual also returned with a citizenship
25 restoration form. Do you see that?

1 A. Yes.

2 Q. Okay. And it looks like -- that was sent on
3 July 3rd. It looks like the attachments include the
4 Certificate of Restoration. I'll note that it's the
5 old form, correct?

6 A. Yes.

7 Q. And it was signed on June 29th -- I suppose
8 June 22nd, on June 29th, depending on who was
9 filling out different parts. Is that right?

10 A. Oh, yes, sorry. Yes, that does seem to be
11 correct. And this does seem to be actually an even
12 older version of the form that was updated in 2011.

13 Q. Okay. And the order that was also included,
14 the citizenship restoration order, is dated
15 June 23rd; is that correct?

16 A. Yes.

17 Q. And that predates the Falls decision; is that
18 correct?

19 A. Yes.

20 Q. And both of these predate the issuance --
21 sorry.

22 A. Yeah. I was trying to remember the date of
23 the Falls decision. I believe it was June 29th.

24 Q. Or June 28th.

25 A. 28th, something --

1 Q. Yeah.

2 A. -- in that range, yes.

3 Q. And they both predate the July 21st issuance
4 of the new guidance?

5 A. Yes.

6 Q. And they were sent to your office on
7 July 3rd?

8 A. Yes.

9 Q. So would that have come in right around the
10 time that you were directed to pause on processing?

11 A. It -- it may have.

12 Q. Even though this seems to have both an order
13 restoring citizenship rights and a Certificate of
14 Restoration, so it sort of has both pieces, which
15 under the old guidance, it wouldn't have needed to;
16 is that correct?

17 A. Correct.

18 Q. It looks like on the version of the
19 communication, we have that then on July 26th.
20 There's a follow-up email saying I wanted to
21 follow-up on the attached, noting that they received
22 this prior to the change in registration process,
23 and asking if they meet the requirements even under
24 the new process. Do you see that?

25 A. Yes.

1 Q. I guess do you have any recollection of
2 receiving this and why it wasn't processed when it
3 was received under the old guidance?

4 A. No, I don't particularly remember.

5 Q. Do you have any recollection of responding to
6 the follow-up questions that are raised in the
7 July 26th email?

8 A. If I remember correctly, yes.

9 Q. What do you remember responding?

10 A. I just remember responding. I believe it was
11 by phone call.

12 Q. And what was the content of the response?

13 A. I -- I don't remember specifically what the
14 response was.

15 Q. As of July 26th were you issuing -- or were
16 you processing -- like understanding at some point,
17 maybe in early July, you had been told to pause on
18 processing applications. Had you started processing
19 them again by July 26th?

20 A. As the new guidance had -- or updated
21 guidance had been issued, we would have started
22 processing them. Again -- again, denial letters
23 didn't go out for a little while due to the need to
24 update those as well. But we would have been, you
25 know, going through them and looking at them again

1 to see if they met the requirements for restoration.

2 Q. So from understanding correctly from some
3 period in early July until July 21st when you
4 received restoration applications, they are
5 basically put in a file and waited on until that new
6 guidance was issued?

7 A. If I remember what I -- what I was doing at
8 the time, if that was correct, it was sort of going
9 through and making sure that what I understood the
10 requirements to be at the time, obviously waiting on
11 the -- on the issuance of -- or the issuance of
12 those -- those updated procedures. Still would have
13 been making sure that court costs and restoration
14 were paid. But, again, I don't believe we were
15 issuing any denials in that time period either. So
16 still going through and making sure that facially
17 from my understanding from at the time that things
18 were -- were in line so that when those updated
19 procedures were issued, then they would be sort of
20 ready to go in whatever direction they needed to go
21 in.

22 Q. So when was the new guidance -- when the new
23 guidance was issued, you could maybe take a next
24 step in processing, of sorting them, but you still
25 weren't sending out anything -- or at least not any

1 denials until mid August?

2 A. Yeah, I believe that was correct.

3 Q. Okay. So it sounds like no denials were
4 going out from about early July to mid August; is
5 that accurate?

6 A. I believe that that would be accurate.

7 Q. And I can't remember the exact date from the
8 one approval. November 1, looking back at
9 Exhibit 10.

10 So in addition to no denials going out from
11 early July to mid August, no approvals were going
12 out in that time roughly --

13 A. Correct.

14 Q. -- as well?

15 A. Correct.

16 Q. So, more or less, no restoration applications
17 were being fully processed during that time?

18 A. There were no sort of decisions being issued,
19 correct.

20 Q. Following up on this one -- or continuing
21 with questions on this one, the question is raised
22 from the county as to whether the attachments would
23 meet the new requirements even under the new
24 process. And notes that they think that the
25 restoration of citizenship is sufficient but aren't

1 sure because of -- about this Certificate of
2 Restoration because it's on an old form. Do you see
3 those questions?

4 A. Yes.

5 Q. Let's take that one at a time. Because would
6 -- even though it is -- the Certificate of
7 Restoration is on the old form, would that be
8 acceptable or would somebody have to submit --
9 resubmit with the new Certificate of Restoration
10 after the guidance was issued?

11 A. My understanding is that the old -- they
12 would need to reissue a new Certificate of
13 Restoration if they had turned in an old -- an old
14 version of the form.

15 Q. Okay. Is that still true?

16 A. From my understanding, yes.

17 Q. And then with regard to the order, I'll note
18 that this says that the petitioner -- let's see.
19 Petitioner will still be prohibited from possessing
20 any firearm or ammunition under provisions of Title
21 18, USC Section 922(g). And as the Supreme Court
22 held in Beecham v. U.S. and the citation, a state's
23 restoration of a convicted felon's civil rights does
24 not remove the disability as to firearm's possession
25 and imposed by federal law. But, otherwise, the

1 rights restoration are granted, as it says above
2 that there has not been any objection filed. Am I
3 reading that correctly?

4 A. Correctly in what way? As like that's what
5 it says --

6 Q. Is that reading?

7 A. -- that's what it said in the order.

8 I mean, that -- that -- that's the language
9 that it says in the order, I believe.

10 Q. And at the bottom it says, It is therefore
11 ordered that the petitioner's citizenship is
12 restored. Does this, under your understanding,
13 suffice for Step 1 under the new process as a
14 demonstration of full restoration of citizenship
15 rights?

16 A. I'm not sure.

17 Q. Do you know whether or not this individual's
18 application has been processed yet?

19 A. My understanding is that there's not been a
20 decision issued on his application.

21 Q. So this individual who got -- received this
22 order on June 23rd and received a Certificate of
23 Restoration on June 29th and had them submitted on
24 July 3rd, all of which happened before the change in
25 guidance, is still in pending status awaiting

1 determination from Mark as to what constitutes full
2 citizenship restoration?

3 A. I believe so.

4 Q. All done with that document. Thank you.

5 Okay. You will be surprised to know we have
6 another document.

7 (WHEREUPON, the above-mentioned
8 document was marked as Exhibit Number 15.)

9 Q (BY MS. HULING) Okay. So this is Exhibit 15,
10 the top document is a voting rights restoration
11 denial letter from July 3rd with corresponding
12 documents from the file; is that accurate?

13 A. Yes, that seems to be accurate.

14 Q. Okay. And flipping to the Certificates of
15 Restoration forms here, it appears that they were
16 received by HCEC which I believe stands for Houston
17 County Elections Commission on June 15th. Do you
18 see that stamp up in the right-hand corner on those?

19 A. Yes, I do.

20 Q. And that would have predated both the Falls
21 decision and the new guidance; is that correct?

22 A. Yes.

23 Q. And it looks like they were also submitted
24 with the voter registration application which was
25 also received on June 15th, along with this

1 Certificates of Restoration -- or the same date at
2 least; is that right?

3 A. That seems to be correct from the stamp on
4 there.

5 Q. And I don't think I've actually seen the
6 transmission to your office of these forms. But at
7 any rate, they were transmitted to your office some
8 time before July 3rd because that's when the denial
9 letter was issued; is that accurate?

10 A. Yes. That would be correct.

11 Q. Okay. And it looks like that they are denied
12 for the reason of additional convictions not listed
13 on the Certificate of Restoration. And then I think
14 the last page of this document is your email
15 submitting the denial letter back to the county
16 commission indicating that you have a record of a
17 conviction in Davidson County for Case No. IF7502 on
18 June 8th, 1995, correct?

19 A. Yes.

20 Q. And so am I understanding correctly that the
21 denial was because there was a third COR that your
22 office should have received or felt that it should
23 have received in order for this application to be
24 approved?

25 A. Yes.

1 Q. Okay. It doesn't actually say -- it just
2 says, Additional convictions not listed on the
3 Certificate of Restoration. But that's additional
4 felony convictions, correct?

5 A. Yes, that is -- that's what that reason for
6 denial means.

7 Q. Okay. Okay. Thank you. Done with that
8 document.

9 (WHEREUPON, the above-mentioned
10 document was marked as Exhibit Number 16.)

11 Q (BY MS. HULING) Okay. So Exhibit 16 appears
12 to be judgments indicating the additional
13 convictions that you list for the -- what you've
14 listed in your email, IF7502; is that correct,
15 looking at the case number up in the upper
16 left-hand corner?

17 A. Yes, in the email in the previous document.

18 Q. Email in the previous document --

19 A. Yes.

20 Q. -- yes.

21 Okay. Thank you. And it appears from these
22 judgments the sort of top right box that both of
23 them are checked off as misdemeanors. Do you see
24 that?

25 A. Yes.

1 Q. Okay. And if this instance -- this -- these
2 additional convictions were for misdemeanors, they
3 do not require a Certificate of Restoration form; is
4 that correct?

5 A. That is correct.

6 Q. Do you have any recollection of this
7 particular instance -- or this particular case?

8 A. Yes.

9 Q. Okay. Do you remember how you received these
10 copies of the judgments here?

11 A. If I'm remembering correctly, I believe they
12 were forwarded to me by a sort of third-party
13 volunteer that had contacted me previously about
14 assisting individuals with restoration of voting
15 rights.

16 Q. So the sort of chain of events here would
17 have been that the CORs for the felony convictions
18 were submitted. There was denial because your
19 records indicated that there was an additional
20 conviction that was lacking a COR. You sent that
21 back to the elections commission who would have
22 passed along the denial information to the
23 individual. The individual through a representative
24 obtained copies of the judgments indicating that
25 they're misdemeanors, and that got shared back with

1 your office. Is that accurate?

2 A. Yes, that's seems to be accurate.

3 Q. Thank you. That's all with this document.

4 (WHEREUPON, the above-mentioned
5 document was marked as Exhibit Number 17.)

6 Q (BY MS. HULING) Exhibit 17 appears to be
7 email correspondence related to Donald Hall which I
8 should have specified, but is the same individual
9 who is the subject -- maybe that's not true. Oh,
10 I'm sorry. That's not right. I'm sorry.

11 It seems to be concerning two individuals,
12 but specifically seems to be concerning
13 Mr. Whitson, who is the subject of the prior two
14 documents that we were looking at?

15 A. Yes, that's seems like it.

16 Q. Very well. Sorry. Okay. Not about you.

17 It looks like turning to the initial email
18 in this communication thread on third page, that
19 with respect to Mr. Whitson, you sent an email to
20 Aloha Morgan in -- the court clerk, and say that
21 your records from TDOC show that Mr. Whitson was
22 convicted in this case. And then you'd received
23 copies of the judgments indicating that they were
24 both misdemeanors. Is it fair to say that the
25 records that you had from TDOC seemed -- indicated

1 that they were felony convictions as opposed to
2 misdemeanors?

3 A. Yes.

4 Q. Okay. And so you were asking the court clerk
5 to confirm that the judgment -- that what you were
6 seeing on the judgment documents, that these were,
7 in fact, misdemeanors as opposed to felonies?

8 A. Yes.

9 Q. Okay. As a side question, wouldn't the
10 judgment be what would indicate whether it was a
11 misdemeanor or a felony? I guess why would you need
12 further confirmation?

13 A. If I'm remembering the situation and
14 circumstances right, due to receiving this judgment
15 not from a county election commission, or from a
16 court themselves, or even the individual turning it
17 in to the county election commission, I -- I wanted
18 to ensure its validity.

19 Q. Just doing your due diligence?

20 A. Correct.

21 Q. And then on July 28th you hear back the case
22 is, indeed, a misdemeanor conviction; is that
23 correct?

24 A. Yes.

25 Q. And, again, the misdemeanors don't require a

1 COR to be submitted for them?

2 A. Correct.

3 Q. So, ultimately, the denial for additional
4 felony convictions lacking a COR was made in error
5 based on erroneous information from TDOC?

6 A. Yes. Under the previous procedures.

7 Q. Then I think the following emails are just
8 reconfirming that the date is the same and just
9 further due diligence on that front; is that fair?

10 A. Yes, I believe so.

11 Q. Okay.

12 (WHEREUPON, the above-mentioned
13 document was marked as Exhibit Number 18.)

14 Q (BY MS. HULING) Document 18 appears to be --
15 or Exhibit 18, I'm sorry, appears to be an email
16 that you received from a woman named Amy Kurland.
17 Is that the individual who supplied the judgment --
18 the copies of the judgment to you; do you remember?

19 A. If -- if I'm remembering correctly, yes, I
20 think it was her.

21 Q. She sent this email on September 11th, it
22 looks like, correct?

23 A. Yes.

24 Q. It looks like, according to her email, she
25 sent you the information showing that the additional

1 convictions were misdemeanors on July 17th. Is that
2 what she says?

3 A. I think --

4 Q. Does that sound about right to?

5 A. Yeah, I wouldn't challenge it.

6 Q. And that you confirmed receipt of that and
7 sent a July 18th email -- or a July 28th email
8 saying that you were looking into the issue.

9 And then it looks like around that same
10 July 28th time, you received the confirmation from
11 Davidson County that they were, in fact,
12 misdemeanors, and I think that is what we were just
13 looking -- the exhibit you were just looking at?

14 A. (Witness nodding head affirmatively).

15 Q. Do you remember if you said you were looking
16 into it before or after you received that
17 confirmation from Davidson County?

18 A. I don't remember.

19 Q. And then this email is from September 11th.
20 Do you remember what happened regarding
21 Mr. Whitson's restoration between confirmation that
22 he had already submitted the required certificates
23 and receiving this email from Amy?

24 A. What happened in the interim?

25 Q. So once you've confirmed that they were, in

1 fact, misdemeanors that he hadn't needed to submit
2 CORs for and so that his initial denial was
3 erroneous, do you remember what happened in the
4 interim, like after that?

5 A. I believe that there were discussions
6 regarding the matter with, if I remember correctly,
7 both Beth and Mark.

8 Q. Do you remember the content of those
9 discussions?

10 MR. BARKER: Objection. Attorney-client
11 privilege, as Beth is an attorney that provides
12 legal advice to the division of elections.

13 I would instruct the witness not to
14 answer.

15 Q (BY MS. HULING) Do you know if you ever
16 replied to this email from Amy?

17 A. I don't -- I don't remember.

18 Q. Would you -- like do you usually --

19 Is it a part of your general
20 responsibilities for rights restoration work to
21 correspond with third-party agents who might be
22 helping individuals with the rights restoration
23 process?

24 A. I have in the past.

25 Q. I'm done with that exhibit. Thank you.

1 (WHEREUPON, the above-mentioned
2 document was marked as Exhibit Number 19.)

3 Q (BY MS. HULING) Exhibit 19 appears to be the
4 email transmitting an additional denial dated
5 August 15th of Mr. Whitson's rights restoration
6 application. And it looks like this time the
7 reason for the denial is that his application was
8 not provided with evidence of pardon or restoration
9 of full citizenship in addition to the Certificates
10 of Restoration; is that accurate?

11 A. Yes, that seems to be accurate.

12 Q. Okay. So without getting into the privileged
13 conversations -- any privileged conversations you
14 may have had with your attorney, the outcome of
15 those conversations, ultimately with respect to
16 Mr. Whitson, is that he was denied because he had
17 not submitted -- he was denied under the new
18 guidance for not complying with the two-step process
19 laid out on the July 21st guidance; is that
20 accurate?

21 A. Yes, that would be accurate.

22 Q. Okay. I guess I'm a little confused by that
23 because he had submitted -- if we look back at the
24 initial document with respect to Mr. Whitson, which
25 is Exhibit 15 -- sometime prior to July 3rd, he had

1 submitted all of the required documentation under
2 the old guidance which was still in effect at that
3 point and was wrongly denied under the old guidance
4 that was in effect at that point based on erroneous
5 information from the TDOC file; is that accurate?

6 A. I believe that would be accurate, yes.

7 Q. And, nevertheless, though, that was wholly
8 outside of his control. He was then -- had -- he
9 was then further denied for not complying with a
10 process that was not yet in place when he had
11 submitted his initial application?

12 A. I believe that he was denied because he did
13 not meet the requirements for -- he had not been
14 restored prior to the issuance of the new
15 procedures.

16 Q. But when he had submitted his application,
17 those had not been -- that had not been the policy
18 that was in place; is that accurate?

19 A. That's correct.

20 Q. And he was, nevertheless, denied under
21 procedures that went into effect several weeks after
22 he submitted his application?

23 A. Correct.

24 Q. Was that done in error?

25 A. What --

1 MR. BARKER: Objection to form.

2 You may answer.

3 Q (BY MS. HULING) The first denial was done in
4 error, correct?

5 A. That is correct because it was based off of
6 incorrect information.

7 Q. Was the second denial done in error?

8 MR. BARKER: Objection to form.

9 You can answer.

10 THE WITNESS: From my understanding, no.

11 Q (BY MS. HULING) Was it the general practice
12 of the department to deny individuals under
13 guidance that was issued after they submitted their
14 applications?

15 A. I don't know the other instances that would
16 be like that.

17 Q. When he originally applied, he was eligible
18 to have his voting rights restored?

19 A. Hindsight being 20/20, with the information
20 received after the issuance of Falls v. Goins, the
21 -- the judgments in the cases that were ultimately
22 misdemeanors, if that information had been
23 hypothetically received at the same time, then -- if
24 he had not been -- if he had not had child support
25 obligations -- I'm not sure that those were

1 checked -- he, I believe, would have been restored.

2 Q. And did I hear you say that to your
3 understanding he is -- this is a unique case, this
4 wasn't part of a general process or policy that
5 folks in his situation -- let me strike that.

6 Do you know of other individuals that fall
7 into a similar boat, where they were eligible under
8 the old process when they applied for their rights
9 restoration but were nevertheless denied under the
10 new policy?

11 A. Not -- not that I can recall.

12 Q. Does this seem like an instance that should
13 be revisited if this is a unique issue where the
14 individual applied and was eligible when he applied
15 and was wrongly denied?

16 A. I don't believe that would be my decision.

17 Q. Is there any process within the department
18 for -- or within your office for revisiting those
19 sorts of decisions?

20 A. Not that I'm aware of.

21 Q. Is that an appealable decision?

22 A. If an individual turns in -- I don't know.

23 Q. Do you know if the department -- or your
24 office has considered whether an individual who
25 applied under the -- and was eligible under -- when

1 they applied under the old guidance but was denied
2 under the new guidance, whether that's an appealable
3 denial?

4 A. I don't know if those conversations have
5 occurred.

6 Q. But you have not been a part of them if they
7 have?

8 A. Not -- not that I recall.

9 Q. Okay. Done with that document.

10 (WHEREUPON, the above-mentioned
11 document was marked as Exhibit Number 20.)

12 Q (BY MS. HULING) Okay. Exhibit 20, the cover
13 page here appears to be a voter restoration denial
14 letter from May 5 for incomplete or insufficient
15 documents; is that correct?

16 A. Yes, that seems to be correct.

17 Q. Okay. If we flip to Pages 1966 and 1964, I
18 believe -- or through 4, it looks like Grainger
19 County. Am I saying that correctly?

20 A. I believe so, yeah.

21 Q. It looks like Grainger County received a
22 Certificate of Restoration for a conviction with the
23 date of July 8th, 1989, on April 27th, along with a
24 voter registration application on April 27; is that
25 correct?

1 A. That seems to be correct.

2 Q. Okay. And it looks like on the last page
3 here those were submitted to you on April 28th,
4 correct?

5 A. Yes.

6 Q. And that is before the Falls decision and
7 before the new guidance was issued, correct?

8 A. Yes, that's correct.

9 Q. If we look at Pages 1970 to 71, so the
10 first -- front and back of the first page, it looks
11 like this application was denied for lack -- or for
12 -- the offense date, that July 8th, '99 date was
13 inaccurate -- '89 date was inaccurate; is that
14 correct?

15 A. That does seem correct, though I would note
16 that the front page is 1970 and the back page is
17 1969. So the front page being a denial letter from
18 May 5th, and then the back -- first page that I have
19 is an email dated May 5th.

20 Q. Does that look like the email conveying the
21 denial letter?

22 A. Yes, it does.

23 Q. And in the email you add a little bit of
24 extra explanation beyond what's in the denial letter
25 specifying that the TDOC database shows the